TEACHING FROM A FEMINIST PERSPECTIVE: AN OCCUPATIONAL HAZARD?

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The closest most legal academics come to practice is teaching—their students, most of whom will practice, being regarded by many as an occupational hazard to their teaching.

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INTRODUCTION

When I think of my feminist practice, I first think of my practice of law. I often think and write about whether my practice of law is sufficiently feminist and, in fact, have devoted most of a forthcoming book, *The Practice of Theory: Essentialism, Equality, and Pregnant Men*, to the subject. My teaching, however, has not received as much close scrutiny. I must admit that from time to time I have even thought of my students as an occupational hazard, particularly when I have been forced to teach quite large mainstream classes. Even in a small class on Feminist Jurisprudence, however, I often have found it difficult to maintain enthusiasm for the course and the students over an entire semester.

Several excellent articles, as well as a book, recently have been published on teaching law classes from a feminist perspective. These works have made me ask myself whether I have introduced feminist

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[1] Catharine A. MacKinnon, From Practice to Theory, or What Is a White Woman Anyway?, 4 Yale J.L. & Feminism 13, 13 (1992).

principles into my classroom teaching sufficiently and, more fundamentally, what those principles should be.[2]

In this Essay, I begin by discussing two of the more recent writings on feminist teaching methodology, particularly at the law school level, and respond to those writings from my own personal experience. My overarching concern in reviewing these writings is that there exists a "party line" about what constitutes effective feminist teaching that has gone largely unexamined. I am not entirely convinced that each of these precepts is necessary or even possible to achieve in the classroom. I also think that these precepts do not consider different methods for most effectively teaching feminism in a variety of class sizes and subjects. I then turn to a discussion of my own teaching experience in a number of different contexts to offer my experiences as a teacher and the lessons that I have drawn from them. I hope that this Essay will make the reader, whether teacher or student, think more seriously about what constitutes a feminist teaching methodology.

I. REVIEW OF THE LITERATURE

As I discuss below, there seems to be a "party line" in feminist theory about what is an appropriate teaching methodology. According to the party line, a feminist teacher is supposed to critique the law for reinforcing "objective" principles, adopt a non-authoritarian role in the classroom, be nonlinear in orientation, and be very open in her discussions with students. This flows from the feminist critique of the state as a domain of male domination. Such an approach, the idea goes, allows the feminist teacher to promote feminist values. Two recent works by Patricia Williams and Morrison Torrey contribute in important ways to the discussion of feminist teaching, and serve as good examples of this pedagogical approach. Nonetheless, I am uncertain about the value of these approaches, either as being necessary to

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[2] Another impetus for thinking about those questions was that I was asked recently if I would be willing to be considered as a candidate for the deanship at a law school. For the first time, I confronted not only the question of how could I be a better feminist in the classroom but also how could I help shape the institution itself into a more feminist environment? In addition, how could I complete this task within the monetary and institutional restraints of the law school environment? These are questions that are beyond the scope of this Essay.

feminist principles themselves, or as being necessary components of a feminist approach to teaching at all.

A. Patricia Williams

Professor Patricia Williams' book, *The Alchemy of Race and Rights: Diary of a Law Professor*,[3] has done a great deal to generate a dialogue about law teaching. As the name suggests, Professor Williams uses entries from a diary kept throughout several years of her law teaching to share with the reader her distinctive methodology as well as the student reactions it provokes. Williams' book is truly a diary and thus is nonlinear in form. She often uses parables to make her points. Therefore it is difficult to list succinctly the key points that she tries to make. Instead, I try to focus on a few of her observations to see how they comport with feminist theory and law teaching.

One of the first observations Williams makes is that law students are taught to believe in what she calls "High Objectivity."[4] The principle of High Objectivity purportedly makes people authoritarian, uncritical of differences, and prone to universalize about things that are truly different. Williams teaches this critique to her students through the use of a story about a little boy who, when he told his parents that he was afraid of big dogs, was told by his mother that all dogs are really the same—i.e., that size makes no difference. Williams reports that her students appear confused by this and the other stories she tells. In Williams' words: "They are confused enough by the idea of property alone, overwhelmed by the thought of dogs and women as academic subjects, and paralyzed by the idea that property might have a gender and that gender might be a matter of words."[5]

When I first read that example, I was both in awe of Professor Williams as well as aghast. I was in awe of her because she truly tries to critique law at its most central core. Through my ongoing practice of law, I think that I probably have become too connected to the law to have the distance that would permit me to offer such a thorough critique.

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3 Patricia Williams, The Alchemy of Race and Rights: Diary of a Law Professor (1991).

4 Id. at 12.

5 Id. at 13.

But then I asked myself the question—do I really agree with Williams' critique and do I think she has chosen an effective method of communicating it to her students? In fact, I think it is too easy to dismiss law as following the principle of "High Objectivity" for two reasons. First, the ability to distinguish cases is central to the practice of law. Frequently, you find yourself having a case that looks incredibly similar to another case, and you really have to struggle to find arguments for why it is different from the other case. The ability to find differences is certainly as important as the ability to find similarities in legal practice. On what basis does Williams believe, I wonder, that law is centered around this principle of High Objectivity that makes it unable to find differences?

It is possible that Williams means to say that law purports to consider cases based on objective rather than emotional principles. Thus, if the dog scared the child and the child was run over by a car while he or she ran away from the dog, the law would teach us that the driver of the car should not be held more liable due to our sympathy for the child. Nevertheless, few law students graduate from law school without realizing that the lawyer for the plaintiff in such a case will try to sway the jury's emotions even when those emotional arguments have no valid foundation in the law. Thus, I could imagine a very useful class discussion on the role of emotions and empathy in the courtroom despite the law's purported distance from those concepts. We could discuss why the law tries to pretend that emotional and political considerations are not present, and how a lawyer might bring those feelings into the courtroom. Such a discussion might be considered feminist, because it tries to value emotionalism, which is often a devalued female trait.

Second, neither Williams' critique nor the critiques of other feminists convinces me that the principle of objectivity has no proper role in a feminist jurisprudence. Williams herself proceeds from an objective principle—that law should *not* embrace objectivity. I suspect that her principle is even more than a negative response to High Objectivity. I suspect that she also embraces the principle that emotion has a place in the courtroom. I find it frustrating that feminists always critique the principle of objectivity in a way that suggests that they do

not hold any objective principles themselves.[6] But without objective principles, you have no way to judge what to accept and what to criticize. Rather than teach my students to disavow objective principles, I want to help them grope with the larger question of which principles they should adopt as basic to ordering their own lives.

Despite her critique of High Objectivity, I believe that Williams does make her students struggle with the question of which principles they should use to order their own lives. An example of this is a story she shares about her conversation in a dining car with a young man on a train. The young man explained that he does not give money to beggars but does talk with them to help him "remember that they're not just animals."[7] After describing more of their conversation, Williams observes that he seemed "anxious to prove the benignity of his neglect."[8] She ends the story by noting that he didn't tip the waitress at all.

Williams offers no further comment on this story. She leaves it for the reader to draw whatever lesson she wants. The lesson I take away is the recognition of how far we have come from our own humanity that we can look at another human and see him as less than human. Replete with ethical principles about humanity, compassion, guilt and generosity, the story makes me want desperately not to be seen by her as the man on the train. Its goal, I would suggest, is to move us toward a certain ethical vision Professor Williams holds. Williams, I would suggest, has her own High Objectivity; it just differs from the principles most commonly found in law.

Following her parable on the child and the dog, Williams comments that her students' confusion is reasonable in a confusing world and conjectures that "my students plot my disintegration, in the shadowy shelter of ivy-covered archways and in the margins of their notebooks."[9] As in the story of the man on the train, this observation illustrates a common precept among feminist teachers: that the teacher

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6 For further discussion of this problem, see Ruth Colker, The Female Body and the Law: On Truth and Lies, 99 Yale L.J. 1159 (1990).

7 Williams, supra note 3, at 17.

8 Id.

9 Id. at 14.

should not hold the role of "expert" and should not try to explain "right answers" to her students. This methodology sometimes leads to student frustration. I was aghast at her story of the child and the dog because, as a teacher, I cannot imagine leaving my students so frustrated from our class discussions that they plot my disintegration. As a teacher, I believe I have guidance to offer students though my experience as a lawyer and my study of feminist theory. I remember being quite confused in law school, feeling that the professor often was "hiding the ball" in a way that obscured rather than illuminated class discussion. I therefore have always tried to be very clear in the classroom. I often begin class with an historical overview of the topic (where appropriate) and some basic statements about the particular rule that we are studying. I then may move into a critique of the rule, but only after I am convinced that my students understand the rule itself. One problem I see with the teaching style Williams purports to use (which I cannot say she does use, since I have never seen Williams teach) is that she moves to a critique before it is clear that the students understand the rule itself. I do not understand why being clear, linear and straightforward cannot be feminist. Yet many writers seem to assume that a feminist law teacher must teach in a completely nonhierachical environment in which her own years of study are given no special weight.

B. Morrison Torrey, Jackie Casey, and Karin Olson

Professor Torrey and her students—Jackie Casey and Karin Olson—wrote one of the most interesting essays I have seen on teaching a course on Feminist Jurisprudence.[10] Unlike most articles on this subject, this co-authored piece offers the shared perspective of both teacher and student. Their article demonstrates that a teacher can incorporate feminist insights into teaching methodology by reducing a great deal of the classroom hierarchy. As such, it provides much inspiration to those of us teaching Feminist Jurisprudence.

Professor Torrey used several distinctive steps to bring feminist methodology to the classroom. First, she contacted her students by letter before the semester began and told them what the assigned

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[10] Morrison Torrey et al., Teaching Law in a Feminist Manner, 13 Harv. Women's L.J. 87 (1990).

reading would be so that the students could get an early start, if they desired. By communicating with her students, she showed them how much she respected their time. This effort appears to have been well appreciated by the students.

Second, Professor Torrey made some personal disclosures about her own politics, although she doesn't indicate whether she discussed anything about her personal life, such as her marital status or sexual orientation. As I will discuss below, that information is often relevant in my own Feminist Jurisprudence classes.

Third, Professor Torrey took a relatively passive role as group leader in the class. In order to achieve shared leadership, anyone could speak without being called upon; if more than one person wanted to speak, the last speaker would designate the next. When problems arose in the class due to, for example, one student dominating the discussion, Professor Torrey would have the students, rather than herself, resolve the problem. From both her and the students' descriptions, it sounds like a fairly nonhierarchical classroom. Precisely how nonhierarchical is unclear, and I wonder what name the students used when referring to Professor Torrey. In my experience, I have found it difficult to get students to be comfortable with calling me by my first name.

Finally, she used other techniques to ensure that heated debate would remain productive, that the personal would be part of the discussions, and that students would be prepared and responsible. Professor Torrey did assign grades, but she made that process less arbitrary by providing her students detailed criteria in advance so they could understand the requirements for a particular grade.

As I discuss below, Professor Torrey's methodology probably would work well in many small, elective Feminist Jurisprudence classes. Nevertheless, I have never managed to teach a Feminist Jurisprudence class where a student's unpreparedness did not force me to exert my authority as professor. Her framework probably works best in a setting where students are genuinely interested in assuming responsibility. It is not clear to me, however, that her methodology would transfer well to other classroom settings. I will discuss some of those other settings below.

II. MY OWN TEACHING EXPERIENCES

A. Introduction

One limitation with this literature is that it does not adequately differentiate between teaching large, "mainstream" courses like Civil Procedure, "pseudo-mainstream" courses like Family Law, and "alternative" theory courses like Feminist Jurisprudence. Moreover, it fails to differentiate between teaching required and elective courses. As I will discuss below, even Feminist Jurisprudence can be a required course. Finally, the methodology appropriate for any particular course will depend upon its size. When I taught a "Feminist Bridge" to the entire first year class at the University of Toronto, I could not use the same methodology I use in my Feminist Jurisprudence seminar. It is surprising how rarely authors comment on the way their teaching style changes according to the size of the class.

B. My First Teaching Experience (Ugh!)

My first formal teaching experience was as an adjunct professor in the Women's Studies Department at George Washington University.[11] I taught a course entitled "Women and the Law." There were no more than ten students in the class. On the first day of class, I had the students go around the room and introduce themselves by saying why they took the course. Each of the women said how interested she was in women's studies and how she wanted some exposure to the law. The two men said they chose the course because they figured it would be easy.

My general plan for teaching the course was that I would put together some exciting reading materials, lecture a little about the readings, and then open up the class for discussion. I had taught a feminist theory class at the Radcliffe Women's Center while in college, had also taught as a teaching fellow in Harvard's Government Department

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[11] At the time, I was a full-time trial attorney at the Department of Justice. I believe that George Washington may have paid me $2,000 to teach this course. I had to put together my own materials and teach twice a week in the evening at George Washington. I was thinking about going into law teaching (or trying to obtain a position at a women's studies department) and thought that this experience would help me decide. In retrospect, it is amazing that I decided to go into teaching on a full-time basis despite this experience.

in a class on women and politics, and had successfully used such a strategy in the past. In fact, I thought of teaching as a pretty easy exercise in a small class.

The two men in the class certainly proved me wrong. They came to class unprepared, made bizarre comments that had no relation to the reading (and were based mostly on a TV show they had seen the night before instead of doing the reading), took no notes, and engaged in private conversation with each other. Since I was hoping to be re-invited to teach this class, I was very afraid of having one of these students complain about me. I was only a few years older than they were, and certainly did not feel in control of the situation. Some of the women students would complain to me privately about these young men and I would respond that the men were entitled to take the class, and that I could not take sides in any class rivalry. Finally, after one of the men made one of his more stupid comments in class, one of the female students said, "I am paying a lot of money to take this class and I would appreciate it if the men in this class did not interfere with my learning. You come to class unprepared and interfere with my education. I resent that." The young men were floored; I don't think anyone, particularly a woman, had ever confronted these men about their immaturity and sexism. They behaved after that. I was practically speechless. I believe my only response was to comment sheepishly that we should be careful not to generalize about all of the men in the classroom.

I suspect that this experience heavily shaped the kind of teacher that I eventually became. I learned that I needed to be in control, especially in a class in which the students were not necessarily feminists. I also learned that I could use the students as my allies if the class became unruly or difficult. Over the years, I often have been pleasantly surprised at how strongly my students will defend me. That support has helped me enormously in maintaining control over my classes.

When feminists write about law teaching, they often seem to assume that the only power dynamic is teacher-student. When the teacher is female and the students are predominantly male, I do not think that teacher-student is the only power dynamic present. (Certainly, race would also be important where the teacher is a member of a minority group and the class is predominantly white.) It shouldn't surprise us to learn that, as women in a male-dominated

classroom, particularly in our early years as teachers, we may have to take steps to maintain our authority. By recognizing the range of environments in which we teach, I believe that we can develop a more coherent philosophy about feminist law teaching.

C. Teaching a Large Mainstream Required Class

Another very challenging teaching experience has been teaching Civil Procedure as a required course to first-year students. The class typically has been large, with my largest class having 165 students. My attempts to utilize feminist principles in this class could be described as modest, at best. There is no way I can learn 165 students' names. In fact, there is no way that I will even have a conversation with, or probably recognize, half of the students in the class. Nevertheless, I have done a few things to bring feminist principles into my Civil Procedure class that are worthy of mention.

First, I try to pick hypotheticals that involve civil rights issues and use women in unconventional roles in my hypotheticals. As modest as this attempt sounds, it does get noticed by my students. One student reportedly commented to another student one day, "I am getting sick of how Colker always tries to ram feminism down our throats. Today, she used a *woman* in her hypo about statisticians!" This exchange made me aware of how little I had to do to be perceived as a feminist. I also realized how close I was to losing my authority in the classroom through modest steps like using female statisticians in hypotheticals.

Second, I try to teach a very practical civil procedure class. When I practice law, I find that my knowledge of civil procedure is one of the most important skills that I bring to practice. Thus, like Pat Williams, I certainly try to critique the rules but, my first objective is to make sure that my students understand the rules. No matter how much we dislike the rules, they exist and must be used effectively by lawyers. I don't think I would do my students any favors by simply critiquing rules.

Similarly, I do *not* teach my students that the rules are hopelessly indeterminate, as might a strong proponent of critical theory because, in my experience, the rules are not indeterminate. My task as a lawyer is to figure out what is the range of meaning possible for a rule and then to figure out how I can use that range of meaning to benefit my

client. There is no point in making an outrageous argument to a judge or magistrate about a rule; limits do exist, even if those limits are not always apparent from the language of the rule. It is my job as a teacher to help my students learn that range of meaning and to become adept at making judgments about the kinds of arguments that are possible.

Finally, I try to make the classroom as comfortable as possible. I usually only call on students who volunteer, I never belittle my students, by always trying to find something positive to say about their comments, and I try to make myself as accessible as possible outside the classroom. In this way, I try to conform to the nonauthoritarian feminist party line. Nevertheless, I do view myself as the expert. My students have not practiced law; there is no way they can understand these rules without significant assistance. Furthermore, I am being paid to "teach" them. Thus, there is some "authoritarianism" to my teaching style.

D. Teaching a Large Mainstream Elective Course

In the fall of 1991, I volunteered to teach Family Law for the first time. I decided to teach this course because I realized that much of my legal work—in the area of lesbian and gay rights as well as reproductive freedom—increasingly focused on family law issues in the state courts. I hoped that I could learn more about these issues by teaching a family law course. Early in my course preparation, I contacted Professor Martha Minow, who sent me thousands of pages of materials that she used in her Family Law course at Harvard Law School. I read through the materials that she sent me, hired a research assistant to help me compile my own set of materials, and looked forward to teaching the course.

Before I volunteered to teach the course, Tulane Law School had one class section of common law family law, which typically drew about eighty or ninety students. (Tulane also offers one section of civil law family law.) With two sections of this course now being offered, I assumed that I would have no more than forty or fifty students. Since the other section had a course description that did not fit the approach I planned to take, I wrote a new description. I stated that the course would focus on what has been called the "nontraditional family," with particular attention to African-American families, poor families, and

gay or lesbian families. Further, I stated explicitly that the course would be taught from a feminist perspective. Since another family law course was being offered the following semester that was quite traditional, I felt comfortable stating my own perspective, and leaving it up to the students to choose. On the first day of class, I reiterated my perspective so that I would not have an "attitude" problem in the classroom later on. I was surprised to observe that, in the end, about eighty students enrolled in my section of the class. I concluded that my use of a feminist approach actually increased enrollment.

One dilemma that I faced was how to grade the students. I did not feel that my course would lend itself easily to a traditional law school exam. I wanted my students to write papers for a grade, but I also wanted to be sure that they read the assigned readings (which were heavy). In such a large class, I also wanted some assurance that the students would attend and be prepared; otherwise, I did not see how I could run a lively discussion.

I therefore made decisions that probably would horrify some feminists. First, I established a mandatory attendance policy. If a student missed more than four classes without explanation, she or he would be penalized a half-letter grade per extra absence. In addition, if I called on a student twice and she or he was unprepared on both occasions, I would treat the student as if she or he were absent. I did not expect to have to invoke either of these rules but I thought I would get better attendance and participation by having them in effect. In fact, I never actually called twice on any student who had not volunteered. I only used the rule penalizing absences against one student who missed nearly half of the classes for the first six weeks. I wrote that student a memo criticizing his attendance and asking him to come by my office to discuss it. I was interested in hearing whether he had an explanation, but he never came to see me. I believe that I penalized him one letter grade.

I implemented these rules for many reasons that I continue to believe are valid. In addition to wanting good participation, I did not want my students taking advantage of my "niceness." Probably because of my experience at George Washington, I was aware that students take courses for many different reasons. I did not want students to take my course because it was perceived to be a "gut." I work hard to prepare for class and I want my students also to work hard. Further,

I feel that it is unethical to give students credit for taking a class simply because they turn in a paper. A lot of learning should take place in the classroom as well. If it doesn't, I am not doing my job. In my early years of teaching, I never required attendance, but as students seem less interested in learning and more focused on grades, I have felt more compelled at times to institute a mandatory attendance policy. As it turned out, the level of class interest seemed higher than usual because this course specifically disclosed its untraditional focus. I probably would not require attendance in the future in such a class because the students' enthusiasm for the course far exceeded my expectations.

I decided to use a paper as a primary mode of grading the students. I developed a complex set of options from which the students could choose. They could write three papers, two papers, one paper or take a final examination. The vast majority of the students chose the three-paper option. In that option, I required that their papers touch on most of the topics of the course, and that each paper discuss the similarities between two seemingly unrelated topics of the course. I told the students that I would be grading them based on originality, clarity, and thoughtfulness. In the future, I will require the three-paper option for two reasons. First, the papers' breadth of coverage facilitated a learning experience for both the students and me. It is the best vehicle for the students to demonstrate their breadth of knowledge and originality. Second, this option proved the best for me to grade. Although it took me longer to grade the papers than it would a standard exam, I actually enjoyed reading many of the papers, as they were very well-written and thoughtful.

The classroom dynamics in this class were very interesting. I wrote the following memo to the Dean during the course, explaining those dynamics:

> From my perspective, the course is going extremely well. In fact, in my seven years of teaching, I don't think that I have ever had a class that I enjoyed teaching as much. The students are so lively that I have trouble calling on most of the people who volunteer. And the quality of their comments is excellent, so that I learn as much from them as they learn from me.

Nevertheless, I understand from my "informants" (gay white men who "pass" so that the racists and homophobes feel comfortable talking to them), that there is some grumbling going on. I find the examples very illuminating. During one class, I gave the students two contrasting hypotheticals involving a lesbian couple who had raised a child together. (The hypo was based on the *Alison M.* case which we will read later in the term.) I used these hypotheticals after a previous class in which we had discussed hypotheticals and cases involving unmarried straight couples with children. Apparently, one student complained saying, "Is this a class in lesbian law?"

Last class, we read two cases involving [Aid For Families With Dependent Children] benefits and the unsuccessful attempts by poor people to retain their child support payments and keep caseworkers out of their homes. I asked the students why the plaintiff may have been so determined to keep the caseworker out of her home. One of the dozen or so black students who responded talked about the dignity issue—that it is really demeaning to have a caseworker open your drawers and see what brand of shampoo you use. She was the only student to respond in a way that seemed to draw on personal experience—the other students, both black and white, talked about the possibility that she was living with a man or owned some expensive furniture, etc. Afterward, one student apparently said, "I can see why the black students wanted to talk so much since they all know what it's like to be on welfare." I suspect that there were equal numbers of whites and blacks talking in a class that is probably about 30% black, yet the white student thought that the blacks were totally dominating the discussion. In addition, only one black student had made a comment which could have been interpreted as reflecting her personal experience. That comment reminded me of one that I received last year in Con Law I on my student evaluations. A student said

> that you could not get called on unless you were gay, black, or female. In fact, five or six straight white men were dominating the discussion all semester. I tried to make up for this domination by calling on other students to balance out the discussion. I, of course, don't even know which of my students are gay, but obviously some students think that they can identify them.

I believe that my experience reveals a lot about the power dynamics in a classroom. Students are so unaccustomed to minority students and openly gay and lesbian students speaking in class that whatever they say gets greatly magnified. This phenomenon should not have surprised me in light of my experience in Civil Procedure, where the use of a female statistician in a hypothetical received so much notice. In contrast, here I went beyond subtle changes, and actually modified the substance of the course. It is a shame that adding feminist content to a mainstream course receives such notice, although I should note that the vast majority of the students seemed to enjoy the class quite a bit.

E. Teaching a Large Required Feminist Theory Class

Early in 1988, the Dean at the University of Toronto Faculty of Law asked me if I would visit for the fall semester of 1988 to teach a "Feminist Bridge" to the first-year students, as well as two small upperclass electives. First-year students at the University of Toronto were required to take four "bridges" during their first year that introduce theory and history into the first year curriculum. For the first time, they would devote one bridge to feminist theory. Since one of the leading feminists on the faculty would be on sabbatical at the time, the dean invited me to visit at the law school to make the experiment succeed.

When I arrived at the law school the following fall, I learned that I would be one of several faculty members co-teaching this one-week intensive course in feminist theory. The students would have to attend sixteen hours of class over four days, and then have a take-home exam.

This was one of my most challenging teaching assignments. As a United States citizen teaching in a Canadian law school, I knew that it

was important to have Canadian content in the course but I knew little about Canadian law. I also knew that some people on the faculty opposed the feminist bridge, and I didn't want to be responsible for its failure the first time through. Finally, unlike any other feminist theory course that I had taught, this one would be mandatory. How do you pitch a required feminist theory course to an entire first-year class?

The other professors and I made several decisions about how to teach the course. First, we decided it would have to be personal. Thus, we each introduced ourselves to the class by talking about how we became interested in feminist theory or by talking about our own law school experiences. We wanted to share our own excitement about teaching the bridge, hoping that it would become infectious. This strategy appeared to work: although I heard that some students felt "embarrassed" by our personal tone, we did develop a very warm classroom environment. Second, we decided to try to expose the students to as broad a spectrum of feminist theory as possible. Because we were not confident that we shared enough diversity in views among ourselves, we brought in two outside speakers (one of whom was Catharine MacKinnon) to round out the perspectives. Finally, we tried to use as many practical examples as possible so that the course would not be overly theoretical. I spent a lot of time reading Canadian constitutional law so that I could pick examples with Canadian content.

During my lectures, I tried to state my own feminist position forcefully, while remaining friendly and open to alternative views. I thought that if the students liked me they would find my lectures more accessible. From what I could see, that strategy seemed to work. At the end of my lectures, I impressed upon the students the need to take feminist theory out of the classroom and into political and legal work. As an outcome of that talk, many students visited my office to talk about pro bono projects they could begin.

A very difficult aspect of this course was interweaving the MacKinnon lecture. Catharine MacKinnon was invited to give a lecture and then respond to questions by the students. I agreed to present a critique of MacKinnon to help begin the discussion period. I am a great fan of Catharine MacKinnon's work, although I am troubled by some of her far-reaching views. To me, MacKinnon's work is like a thought experiment—if I imagine that the world is as bad as she

claims it is, I can get a clearer perspective on the actual world. I wanted to critique MacKinnon in a way that would not cause the students to dismiss her work entirely, which I feared would be the likely tendency of many students. To do that, I made some brief critical observations without questioning her basic premises. Afterwards, some students told me that they found my version of MacKinnon easier to understand and accept than MacKinnon's version. I was happy to hear that response because I did not want to do anything to undercut her important work.

I believe that the MacKinnon lecture worked well, because I demonstrated how other feminists can disagree with her in "good faith," i.e., by continuing to respect her views while at the same time acknowledging their limitations. By making the critique of MacKinnon nonrhetorical, I believe I helped the students reject some of her more extreme views, without feeling they had to dismiss her entire theory.

The grading process also proved to have its challenges. When requiring exams, I have always preferred take-home exams because they don't have the false time pressures of an in-class exam. They seem more "feminist" to me, because they offer the student the option to take the exam in a less competitive atmosphere. We chose to give the students a 24-hour take-home exam, to enable the students to be more creative and relaxed. We also put a word limit on the exams to discourage students from staying up all night to work on the paper. Some women with children, however, complained that they were at a disadvantage because they could not work in the evenings. We were very sensitive to this problem, but did not know how to respond. We said that we did not expect that anyone would need to stay up all night but that we would make exceptions in individual cases. While I do not remember any mother actually approaching us for additional time, I did learn from this experience that even the most benign examination technique can pose problems.

One positive result that flowed from the existence of the feminist bridge was that it made it easier for me to interweave feminist theory into the first-year class on Canadian Constitutional Law I taught at the University of Toronto Law School during my second visit to its faculty. After the class had the bridge (which occurred in the middle of the semester and in which I again participated), I directly raised the fact that I had noticed in my Constitutional Law class that women

participated less than men. I said that I would try to overcome that problem by making an extra effort to call on more female volunteers, and that I hoped the women in the class would respond by volunteering more. (For a while, at least, more women did seem to volunteer.) I also started offering more explicit feminist analyses of the cases and, in particular, focused more heavily on gay and lesbian issues in some of the cases. I believe that the bridge made me more comfortable with my feminism in the classroom, and also made the students more comfortable and interested in feminist theory. The bridge, therefore, truly acted as a "bridge."

F. Teaching Feminist Jurisprudence as an Elective

Of all my teaching experiences, teaching Feminist Jurisprudence as an elective is clearly the easiest, because the class generally is filled with committed feminists. I used to teach Women and the Law, but I abandoned that course as unteachable. A Women and the Law course requires that the instructor be an expert on every area of the law so that she can then present the special issues involving women. However, my knowledge of the many various fields was not sufficient to make me feel I could do an adequate job.

Feminist Jurisprudence can be whatever I want to make it. So much has been written in feminist theory that I cannot possibly cover it all. I usually focus the readings around my current research interests. Thus, when I was writing about feminism, theology and abortion, I collected materials on that subject for the students to read. As to pedagogy, I have not been nearly as attentive to group dynamics as Professor Torrey. Typically, I teach the first five or six weeks by exposing the students to a range of feminist theory. For example, this spring semester I am assigning books by Pat Williams, Ruthann Robson, Catharine MacKinnon, Martha Minow, Vicky Spelman, bell hooks, and myself. I have read each of these books many times and believe that I have substantial expertise to offer the students. On the other hand, I am very careful not to suggest that there is one *correct* feminist theory. My own work, which they will read, tries to be open to multiple interpretations and perspectives. In my teaching evaluations, my students sometimes comment on how good a job I do at presenting views with which I disagree. I believe that if I am going to criticize a view then I should have the strongest version of that view in front of

the class. I try to avoid catch phrases like "High Objectivity," and instead I try to make my students work hard to understand views with which they disagree. I believe that I can present my views without taking advantage of my power in the classroom to force the students to conform to my views. Then, if students' views do nevertheless coincide with my own, I feel that it is relatively genuine.

I also focus on developing the practical skills of the students in my Feminist Theory class. After I teach the first five or six weeks, I have each student present a draft of his or her required research paper and ask another student to serve as the "lead critic." The lead critic provides a response to the classroom oral presentation and offers written comments on the rough draft. I use this method so that students will take more responsibility for themselves and others in the learning process. I believe that it is important for students to develop good writing and editing skills, and I hope that my emphasis on their writing will improve those skills.

I also have found it very important to develop trust in my Feminist Jurisprudence class. Trust is important not only among the students, but also between the students and the teacher. Because the issues in this class are inherently sensitive and controversial, and because I have found that this class attracts a greater diversity of students than do other classes, situations commonly arise that are potentially troublesome or even explosive. I find that these controversial issues can be explored most fully when a sufficient level of trust exists in the class. Openness, both by the professor and by the students, seems to foster the required trusting and respectful classroom atmosphere.

For example, a heterosexual student once asked the students in this class whether they thought that women should retain their "maiden" name after marriage. She asked the question in a way that only referred to the heterosexual community. The naming of children, however, is a big issue in the lesbian community, and I felt that the question could have been addressed in a more inclusive way. I was surprised that there was no negative reaction among the lesbian and gay members of the class, until I realized that the student who made the comment was a member of the law school's gay and lesbian law journal; evidently, a relationship of trust already existed between her and the lesbian and gay students which prevented such a reaction. Of course, as a teacher I cannot rely on this type of coincidental openness,

and I have structured the class to encourage openness and understanding, keeping in mind each individual's privacy interests. I have required students to lead discussions of the materials assigned, and have found that this gives students an opportunity to discuss their viewpoints and provides an opportunity for other students to comment based on their own views. In this same class I have noticed, for example, that students who started the semester with "homophobic" and "racist" views have had their views challenged by the highly personal discussions.

One dilemma that I have often faced in teaching Feminist Jurisprudence, particularly when we are discussing the material on lesbian and gay rights, is how much to disclose about my own sexuality. In addition, I also often face a dilemma of trying to figure out how to make my gay and lesbian students feel comfortable in the classroom. The two dilemmas are interrelated. Because of my status as a teacher and my "reputation" in the field of lesbian and gay rights, students often seem too interested in my personal life. I feel objectified by being forced to disclose too much about my past and present partners. On the other hand, my life experiences are sometimes relevant to our discussions. One way that I have resolved this dilemma is to provide the students with a copy of a short essay that I wrote in the *Yale Journal of Law & Feminism*.[12] This essay puts my personal life on the table without my having to discuss it. Students who want to discuss with me personal issues relating to their own sexual orientation may then feel more comfortable doing so. Some people may view it as odd that I find it easier to write about a subject than to talk with my students about it, but by simply assigning the reading, or making it available to them, I feel that I give them the choice to learn as little or as much about me as they choose. I don't have to waste the time of students who don't care to hear about my personal life.

Few professors, of course, have the option of assigning a reading that discloses their life history, and I don't always assign that reading myself. Nevertheless, I usually find ways—often through private conversations in my office—to allow the students to learn about my personal situation since I believe that it does affect my view of law and feminism.

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[12] Ruth Colker, Marriage, 3 Yale J.L. & Feminism 321 (1991).

Similarly, I try to give my gay and lesbian students the space to come out of the closet if and when they want to. I absolutely never pull a student out of the closet in class, no matter what I may know about him or her. One difficult episode I had in this regard, however, shows how difficult gay and lesbian issues can be in the classroom. This incident occurred while I taught at Tulane Law School, in New Orleans, Louisiana, where the climate in many law firms is blatantly homophobic. A well-known story in the gay and lesbian community is that a lesbian who was ranked very high in her class (third, I believe) had a job offer at a major New Orleans firm rescinded after the partners learned that she was a lesbian. No one will ever know truly why her job offer was rescinded, but the common belief in the gay and lesbian community is that her sexual orientation was the reason. Understandably, that episode drove many students within the law school community firmly into the closet.

One of my students was very concerned about her job prospects being damaged if anyone found out she was a lesbian. In my seminar that semester, each of the students had volunteered to lead the discussion on a particular reading. She had volunteered to lead the discussion of Adrienne Rich's *Compulsory Heterosexuality and Lesbian Existence*.[13] The point of Rich's essay is to question what the word "lesbian" means. By Rich's definition, all of the women in the class would have been on the lesbian continuum due to their commitment to feminism. A few days before the scheduled class, this student came to me and said that she could not lead the discussion because she was afraid that word would get back to the New Orleans law firms that she was a lesbian. I asked her why teaching that reading would cause anyone to assume she was a lesbian, especially since the essay defines lesbianism in a political rather than sexual context. (I assume that she was only worried about being labeled a "sexual" lesbian.) She was too upset to provide a coherent answer. I told her that I would think about it. I then got back to her and said that I didn't see that I had any options. All of the other students already had chosen a reading to discuss with the class. I hadn't forced her to pick that particular reading, and I didn't think that anyone in the class would particularly care that she had chosen it. Additionally, it was extremely unlikely that what hap-

[13] Adrienne Rich, Compulsory Heterosexuality and Lesbian Existence *in* Powers of Desire: The Politics of Sexuality 177 (Ann Snitow et al. eds., 1983).

pened in two hours of one class in law school would get back to the New Orleans firms. Further, I suggested that if I changed the class rules and led the discussion myself, it would attract as much attention to her as if she led the discussion. In fact, it might create even more rumors. Since she had picked the reading, I could only warn her as her professor that I would have to penalize her if she failed to attend class and lead the discussion. I felt horrible to take such a firm position but I did not want to condone what I perceived to be her self-centered paranoia. In fact, she led the discussion, did a great job, and ultimately landed her dream job in another city (where she decided she preferred to live). She even became a very "out" lesbian at Tulane and in the community. At the time, however, I felt like a cruel, terrible person.

Looking back, I do not know what I would do if the situation arose again. I probably would do the same thing because, while I see my role as not invading a student's privacy, I also should not feed needless paranoia. This student was taking steps to get out of the closet but lost courage along the way. I refused to help lock her inside, although I would not have dragged her out of the closet. If I had had Professor Torrey's commitment to making the students run the class, I don't know how I would have handled this situation. I would have had to breach the student's privacy in order to bring this matter to their attention. I did try to give the student some control by giving her the option of not showing up and taking a grade penalty, but that was a pretty coercive option. To this day, I still see no good solution to the problem.

III. CONCLUSION

Sometimes teaching from a feminist perspective seems to constitute an occupational hazard. Even the slightest incorporation of feminist principles into classroom discussions are met with confusion at best and with suspicion or disgust at worst. I have found that the classroom context is important in determining to what extent to employ feminist teaching methodologies. For example, while a large, first-year Civil Procedure class might not be the best place to adopt a non-hierarchical approach, I have found it possible to employ nontraditional examples in the discussions. On the other hand, I have found that the small size of my Feminist Jurisprudence elective, coupled with the nature of its subject matter, make it possible for me both to adopt a

relatively non-hierarchical method and to foster openness. This in turn fosters the trust necessary to engage in full and frank discussion.

I have found that the generally-accepted "canons" of feminist teaching need to be reconsidered, and that such "canons" are not always necessary or appropriate either for teaching from a feminist perspective or for conveying feminist principles. My own experiences in varied situations have taught me that some approaches that may be successful in, for example, a small Feminist Jurisprudence class, may be either unfeasible or counterproductive in a large, required class. While teaching from a feminist perspective is appropriate in all of these situations, the procedures involved may differ.

I have never discussed pedagogy with my students, but, inspired by Professor Torrey, I have done so this semester. Tulane Law School has a student newspaper, Dicta, in which the students discuss issues that are of concern to them. Last year, during the David Duke bid for Governor and President, the pages were filled with discussions of race. This year, they have been filled with discussions of pedagogy. To my surprise, some first-year students have been citing feminists to support their arguments. I hope to take advantage of the dialogue that the students have started in order to make my own classroom more feminist. I will be writing more about my attempts to improve my feminist methodology in the classroom in my forthcoming book *The Practice of Theory: Essentialism, Equality, and Pregnant Men.*